IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO: 11363 of 1998

Between:

The Rayalaseema Thermal Power Project, Staff and workers Union (Regd.No.1060)
Max Bhavan, AITUC Office,
Yerraguntla, 516309, Kadapa, rep. by its President G. Obelesu.

... PETITIONER

AND

1 The Chairman, A.P.S.E.B. Vidyutsodha, Somajiguda

Hyderabad.
2 The Member Secretary, A.P.S.E.B. Vidyutsodha, Somajiguda,

Hyderabad.
3 The Chief Engineer, The Rayalaseema, Thermal Power

Project, Kalamalla, Kadapa District.
4 The Conciliation Officer, rep. by The Asst Commissioner of

Labour, Kadapa
(R-4 is impleaded as per court order Dt,. 4/4/2000 in WPMP

7187/2000

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ order or direction particularly one in the nature of writ of Mandamus declaring the action of the respondents in not allowing the workmen

mentioned in the list enclosed herewith from attending their duties as usual w.e.f. 1-4-98 is amounts arbitrary, illegal, and violative of Art. 14, 16 and 21 of the constitution of India, and also violative of section 25(F) of the Industrial disputes Act. 1947. Consequently direct the respondents to allow the workmen of the petitioners Union mentioned in the list enclose herewith, pending regularization of their services as per the order dated 11-3-98 in W.P.NO. 8814/98 and pass such other orders as may be just and proper in the circumstances of the case.

Counsel for the Petitioner: MR.DASARI VIJAYA KUMAR

Counsel for the Respondents: SMT.K.SESHARAJYAM

The Court made the following:

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O R D E R: -

This writ petition is filed seeking a Mandamus, declaring the action of the respondents, in not allowing the workmen mentioned in the list enclosed with the writ petition, from attending their duties as usual, with effect from 01.4.1998, as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India and also violative of Section 25-F of the Industrial Disputes Act, 1947 (for short "the Act"), and consequently direct the respondents to allow the workmen of the petitioners' union, pending regularization of their services.

2. Admittedly, all the petitioners worked as casual labour with the Contractor engaged by respondent Board. Their contention is that, though they are entitled for absorption on regular basis as per B.P (P&g.PER) Ms.No.36 and 37, dated

18.5.1997, the Management has not absorbed them on permanent basis. On the other hand, their services were dispensed with on 1.4.1998, and the same amounts to retrenchment under Section 25-F of the Act, and since the management has not followed the procedure as required under Section 25-F of the Act, such retrenchment is arbitrary and illegal, and therefore, they are entitled for regularization of their services.

3. A detailed counter affidavit has been filed by the management on behalf of the respondents denying the allegations made by the petitioners. It is asserted in the counter that the Board had issued B.P.Ms.Nos.36 and 37, dated 18.5.1997 with certain guidelines for absorption of contract Labour/Ex.Casual Labour/village Electricity workers. B.P.Ms.No.36 is not applicable to the generating stations and B.P.Ms.No.37 is only applicable to generating stations, wherein the contract labour working in 33 prohibited categories have to be considered for absorption. Subsequently, B.P.Ms.No.37, dated 18.5.1997, has been superseded by B.P.Ms.No.272, dated 31.12.1997. Further, the Board also issued B.P.Ms.No.361, dated 19.12.1997 retreating the contract workers working in 33 prohibited categories as employees of the Board only and the contract labour who are on rolls as on 23.9.1996, have been regularized as Departmental Employees in RTTP. As many as 823 employees were absorbed and other casual labour are on rolls, in the remaining vacancies. It is further asserted that the question of allowing the members of the petitioner union to duties does not arise, since the system of contract labour was prohibited in the Generating Stations.

4. Be that as it may, admittedly, the petitioners are labour working with the contractors engaged by the Board. Therefore, the question of invoking Section 25-F of the Act does not arise and this writ petition is misconceived. It is further asserted by the counsel appearing for the Board, which was not disputed by the counsel for the petitioner, that after the issuance of B.P.Ms.No.37, dated 18.5.1997, all the eligible contract labour were considered including the members of the petitioners' union. The cases of the members of the petitioners' Union, whose list is enclosed to the writ petition, were rejected on the ground that they could not satisfy the criteria as laid down under the above said two B.P.Ms.Nos. In fact, learned counsel for the petitioner stated that individual cases were considered and rejected. Under those

circumstances, there is nothing left to be considered by this Court in this writ petition.

5. However, it is the contention of the learned counsel for the petitioner that as per the various circulars issued by the Board, which are in force, the members of the petitioners' union as enlisted herein, are entitled for preferential treatment for appointment to various posts as per their educational qualifications and eligibility. Therefore, they request this Court to direct the respondents to consider their case on preferential basis for any future recruitment.

6. I am afraid, such a blanket order cannot be granted by this Court. Learned counsel for the petitioner could not bring to the notice of this Court any particular proceedings issued by the Board, making them liable for being treated on preferential basis for appointment into the respondent Board.

7. In view of the above, except directing the petitioner to make a comprehensive representation before the concerned authority by incorporating the circulars and the judgments of the Supreme Court, if any, for their consideration for absorption or for any preferential treatment as per their eligibility, no other directions can be given to the respondent. Therefore, the petitioner is directed to file a comprehensive representation to the concerned authority and the respondent-authority shall entertain and consider the representation that may be filed by the petitioners' organization, and pass appropriate orders as per law.

8. With the above direction, the writ petition is disposed of. No order as to costs.

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C.V.RAMULU, J

Sd/-

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Chairman, A.P.S.E.B. Vidyutsodha, Somajiguda

Hyderabad.
2 The Member Secretary, A.P.S.E.B. Vidyutsodha, Somajiguda,

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